

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

In re: ENERGY FUTURE HOLDINGS	)	
CORP., ET AL.,	)	Chapter 11
	)	Bk. No. 14-10979 (CSS)
	)	BAP No. 18-33
	)	BAP No. 18-34
Debtors.	)	
	)	
	)	
SHIRLEY FENICLE, ET AL.,	)	
	)	
	)	
Appellants,	)	
	)	
v.	)	Civ. No. 18-877-RGA
	)	Civ. No. 18-878-RGA
	)	
EFH PLAN ADMINISTRATOR BOARD,	)	
ET AL.,	)	
	)	
Appellees.	)	

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**RECOMMENDATION**

At Wilmington this **25th** day of **July, 2018**.

WHEREAS, pursuant to paragraph 2(a) of the Procedures to Govern Mediation of Appeals from the United States Bankruptcy Court for this District dated September 11, 2012, the court conducted an initial review, which included information from counsel, to determine the appropriateness of mediation in these matters;

WHEREAS, as a result of the above screening process, the issues involved are not amenable to mediation and mediation at this stage would not be a productive exercise, a worthwhile use of judicial resources nor warrant the expense of the process.

As noted by the parties, none believe that mediation would be productive at the present time, nor feel that the issues involved in the appeals are amenable to mediation or would be a productive use of judicial resources. Further, on June 18, 2018, Appellants filed a motion to remove these appeals from mediation and for expedited briefing and a hearing. Regarding a proposed briefing schedule on these appeals, the parties have completed briefing on their positions concerning the motion to expedite, which addresses the schedule for briefing and consideration of the appeal.

THEREFORE, IT IS RECOMMENDED that, pursuant to paragraph 2(a) Procedures to Govern Mediation of Appeals from the United States Bankruptcy Court for this District and 28 U.S.C. § 636(b), these matters be withdrawn from the mandatory referral for mediation and proceed through the appellate process of this Court. Since the parties are in agreement to withdrawing these matters from mandatory mediation, no objections pursuant to 28 U.S.C. § 636(b)(1)(B), FED. R. CIV. P. 72(a) and D. DEL. LR 72.1 are expected in response to this Recommendation

Local counsel are obligated to inform out-of-state counsel of this Order.

/s/ Mary Pat Thyng  
Chief U.S. Magistrate Judge Mary Pat Thyng